

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Arlan James Reschke, et al. ART UNIT: 3739
SERIAL NO.: 10/718,113 EXAMINER: Michael F. Peffley
FILED: November 20, 2003 DATED: February 16, 2006
FOR: ELECTROSURGICAL PENCIL WITH IMPROVED CONTROLS

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE
PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Sir:

Sherwood Services AG (hereinafter referred to as "the Assignee"), assignee of the entire right, title and interest in and to the above-referenced patent application (by virtue of an assignment recorded on April 1, 2004, at Reel 015175, Frame 0813), hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application No. 10/959,824, filed on October 6, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The Assignee hereby agrees that any patent granted on the instant application shall be enforceable only for and during such period that the legal title to said patent shall be the

same as the legal title to the aforesaid reference Application No. 10/959,824, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, the Assignee does not disclaim any terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term on any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference Application No. 10/959,824: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued or is otherwise terminated prior to expiration of its full statutory term as shortened by any terminal disclaimer filed prior to the patent.

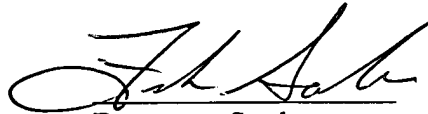
The undersigned, an attorney of record in this application, is empowered to act on behalf of the Assignee pursuant to 37 C.F.R. 1.321.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

The U.S. Patent Office and/or Director is hereby authorized to charge Deposit Account No. 21-0550, the amount of \$130.00 to cover the terminal disclaimer fee, as set forth in 37 CFR 1.20(d). A DUPLICATE COPY OF THE PRESENT PAGE IS ENCLOSED FOR FEE PROCESSING.

Date: February 16, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Sardone', written over a horizontal line.

Francesco Sardone

Reg. No. 47,918

Attorney for Applicant(s)

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, New York 11747
Tel.: (631) 501-5700
Fax: (631) 501-3526